

2025:PHHC:088862



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**115**

**RSA-5983-2018 (O&M)**

**Date of Decision : 21.07.2025**

BALWINDER SINGH

.... Appellant

VERSUS

DHANNA SINGH & ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Ms. Ekta Thakur, Advocate  
(joined through hybrid mode)  
Ms. Shikha, Advocate for the appellant.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 21.11.2015 passed by the learned Trial Court and the judgment and decree dated 10.05.2018 passed by the learned First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for partition, rendition of accounts and injunction averring therein that the plaintiff-appellant and defendant-respondent No.1 herein were allotted residential-cum-dairy Plot No.53 in Milk Colony, Dhanas, U.T. Chandigarh vide memo No.408 dated 20.05.1987. Thereafter, building was raised on the plot as per the sanctioned plan and for that purpose an amount of ₹3,00,000 (rupees three lakh) was taken as loan from State Bank of India, Sector-37, Chandigarh which has since been repaid. The loan papers were also alleged to have been signed by

the allottee. It was the case set up in the plaint that the plaintiff-appellant and the defendant-respondent No.1 being members of the joint family were living with their parents at the time of allotment and after construction did not partition the building constructed on Plot No.53. The defendant-respondent No.1 shifted in a part of the house built on the said plot as per the family arrangements and some portion of the house was let-out by defendant-respondent No.1 and he was collecting rent qua the same. It was further averred that after the repayment of the loan amount, the plaintiff-appellant requested defendant-respondent No.1 to share the house in question but he did not accede to his request. He even refused to share the rental being received. It was further stated in the plaint that the ground floor was being occupied by defendant-respondent No.1 and the remaining portion was let-out to tenants.

3. On notice the defendant-respondent No.1 appeared and filed his written statement raising preliminary objections qua maintainability and that the plaintiff-appellant has no share in House No.53, Milk Colony, Dhanas, U.T. Chandigarh. On merits it was stated that the plot was allotted to the plaintiff-appellant and defendant-respondent No.1 but the plaintiff-appellant had given his share to defendant-respondent No.1 vide affidavit dated 20.10.1996 and he had paid all the installments of the property to the Chandigarh Housing Board.

4. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is a co-owner in the suit house ? OPP
2. If issue No.1 is proved, whether the plaintiff is entitled to partition and separate possession of his share in the suit house ? OPP
3. Whether the plaintiff is entitled to rendition of accounts as prayed ? OPP
4. Whether the plaintiff is entitled for permanent injunction as prayed for ? OPP
5. Whether the suit is not maintainable ? OPD
6. Relief.

5. The Trial Court took up the issue of maintainability and holding that the suit itself was not maintainable, dismissed the suit vide impugned judgment and decree dated 21.11.2015. Aggrieved by the same an appeal was preferred by the plaintiff-appellant before the learned First Appellate Court which appeal was also dismissed vide impugned judgment and decree dated 10.05.2018. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that the suit was for partition filed by one brother against another brother. It was an admitted case of both the parties that the plot in question was allotted to the plaintiff-appellant and the defendant-respondent No.1 by the Chandigarh Housing Board and that all installments had been paid. Learned counsel for

the plaintiff-appellant has relied upon one affidavit dated 20.10.1996 (Ex.D-34) to show a settlement between the parties.

7. Heard.

8. In the present case the plaintiff-appellant filed a suit against defendant-respondent No.1 and other defendant-respondents averring that the plaintiff-appellant and the defendant-respondent No.1 were co-owners of the suit property however interestingly not a single document was produced on the record qua ownership of the said property. Though the case set up was that the property had been allotted by the Chandigarh Housing Board and all installments had been paid and a loan was also taken in this regard, however, the plaintiff-appellant and the defendant-respondent No.1 failed to produce even an iota of evidence qua their ownership. The only document which was produced on the record was an affidavit (Ex.D-34) showing some sort of settlement between the parties. Infact, the plaintiff-appellant appeared as his own witness and had filed his affidavit in examination-in-chief and thereafter no other evidence was led qua ownership. It is unbelievable that a person who claims himself/herself to be an owner and allottee of a plot by the Chandigarh Housing Board would not even have a single document in his/her possession showing himself/herself as an owner. In the absence of a single document showing the ownership of the plaintiff-appellant and the defendant-respondent No.1, merely because the ownership was admitted by defendant-respondent No.1, would not be a ground to entertain the suit and decree the same. In view thereof, no fault can be found with the impugned judgments and decrees.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

**21.07.2025**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: Yes/No*